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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/831,004	05/03/2001	Joris Jozef Gustaaf Tack	CM1930	8972

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EXAMINER

NGO, LIEN M

ART UNIT	PAPER NUMBER
3727	

DATE MAILED: 07/24/2003

11

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Offic Action Summary</b>	Application N .	Applicant(s)
	09/831,004	TACK ET AL.
	Examiner LIEN TM NGO	Art Unit 3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 08 May 2003.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-15 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-15 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)      4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)      5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_      6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/8/03 has been entered.

***Specification***

2. The abstract of the disclosure is objected to because "The present invention is directed to" in the beginning of the abstract should be deleted. Correction is required. See MPEP § 608.01(b).

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 7, "the spring" lacks antecedent basis.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-5, 7, 8, 10 and 12-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Bando et al. (Pub. US 2002/17522 A1).

In regard to claims 1-5, and 15, Bando et al. disclose, in fig. 1, 3 and 13, a container for wetted wipes comprising a container body 12, a stationary cover 13 having a dispensing opening 24, a movable lid 23, a gasket seal or a packing 53 (see fig. 13), a spring element 50, a locking mechanism comprising a protrusions 33 and 32 of the stationary cover and the movable lid, and a push-button 31a.

In regard to claim 7, the spring element is made of silicon rubber (see paragraph 59).

In regard to claims 8 and 10, the gasket seal 53 is located along the periphery 52 of the dispensing opening and fitted in a groove (see fig. 13). The process of making a product in claim 10 is not considered for patentability in a product claim (see MPEP 2113).

In regard to claim 12, the gasket is compressed along its periphery when the movable lid is in the closed position (see fig. 13).

In regard to claim 13, the station cover 13 comprising ribs and grooves 13a which fit into corresponding ribs and grooves 12a, 12b of the container body with assembling surfaces are edgeless (see figs. 6 and 7).

In regard to claim 14, it would be considered the stationary cover is a top 27 being and integral part of the topside of a container body 13, the bottom side of the container body comprising refill opening which is closed by a removable cover 12 (see figs. 1, 6 and 7).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bando et al. in view of Taguchi et al. (4,513,877) Bando do et al. do not disclose the spring element being a metallic winding coil. Taguchi et al. teach a hinge bias spring element being a winding coil. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the Bando et al. spring element being a metal winding coil, as taught by Taguchi et al., in order to provide a desired spring element for the biasing hinge of container cover.

9. Claims 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bando et al. in view of Scaroni (5,065,885). Bando do et al. do not disclose the gasket

seal or the packing made out of a silicone elastomer. Scaroni teaches in col. 4, lines 11-13, a gasket made out of a silicone elastomer being well known in the art. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the Bando et al. gasket seal made of silicone elastomer, as taught by Scaroni, in order to provide a good sealing with a soft resilient material.

In regard to claim 11, the process of making a product is not considered for patentability in a product claim (see MPEP 2113).

### ***Response to Arguments***

10. Applicant's arguments filed 5/8/03 have been fully considered but they are not persuasive.

11. In regard to claims 1-5, 7, 8, 10, and 12-15, applicant argues that a prima facie obviousness rejection has not been established in the previous office action. The claims are rejected under 35 U.S.C. 102(e) as being anticipated by Bando et al. (Pub. US 2002/17522 A1) as clearly pointed out in the rejection above.

12. In regard to claims 6, 9 and 11, the prima facie obviousness has been established to support for the 103 rejections of the claims as pointed out above.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIEN TM NGO whose telephone number is 703-305-0294. The examiner can normally be reached on Monday through Friday from 8:30 AM -6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LEE YOUNG can be reached on 703-308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3579 for regular communications and 703-305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.



Lien Ngo  
July 21, 2003